

MATTER OF FOTOPOULOS
In Deportation Proceedings

A-17485345

*Decided by Board December 23, 1971 as amended January 19,
1972*

- (1) Respondent, who at the time of admission for permanent residence was not destined to and had no intention of taking up the employment as a dye box operator covered by the labor certification then presented, and who proceeded to another area and obtained other employment, is deportable for lack of a valid labor certification at entry.
- (2) There is no authority in the statutory scheme for a *nunc pro tunc* determination in deportation proceedings of respondent's alleged entitlement at entry to an automatic labor certification under Schedule C—Precertification List, as a maintenance mechanic. Respondent's admissibility at time of entry, upon which his deportability now depends, must be judged in the light of the validity of the labor certification he presented at that time.

CHARGE:

Order: Act of 1952—Section 241(a) (1) [8 U.S.C. 1251]—Excludable by law existing at the time of entry—Section 212(a) (14) [8 U.S.C. 1182]—coming to perform skilled or unskilled labor—no valid labor certification.

ON BEHALF OF RESPONDENT:
Jonathan E. Avirom, Esquire
225 Broadway
New York, New York 10007

ON BEHALF OF SERVICE:
Robert A. Vielhaber
Appellate Trial Attorney

This case is before us on appeal from a special inquiry officer's order of October 23, 1970, granting the respondent the privilege of voluntary departure, but providing for his deportation from the United States to Canada, alternatively to Greece, on the charge contained in the order to show cause, in the event of his failure to so depart. The special inquiry officer's decision will be affirmed and the appeal dismissed.

The record relates to a 31-year-old single male alien, a native and citizen of Greece, who last entered the United States on Jan-